

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Peter N. Kapetan, Esq. SBN: 138068 KAPETAN BROTHERS, LLP. 1236 M Street, Fresno, CA 93721		FOR COURT USE ONLY FILED TULARE COUNTY SUPERIOR COURT VISALIA DIVISION AUG 01 2009 BY: <u>Nicole Renteria</u> CLERK	
TELEPHONE NO.: (559) 498-8000 FAX NO.: (559) 498-3784 ATTORNEY FOR (Name):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF TULARE STREET ADDRESS: 221 South Mooney Boulevard MAILING ADDRESS: CITY AND ZIP CODE: Visalia 93291 BRANCH NAME: Visalia County Civic Center			
CASE NAME: Devin Nunes Campaign Committee v. Michael J. Seeley, et al.			
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: <div style="font-size: 1.5em; font-weight: bold; text-align: center;">279766-</div>
		JUDGE:	DEPT:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:
- | | | |
|---|--|---|
| Auto Tort
<input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
<input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PI/PD/WD (23)
Non-PI/PD/WD (Other) Tort
<input checked="" type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PI/PD/WD tort (35)
Employment
<input type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | Contract
<input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37)
Real Property
<input type="checkbox"/> Eminent domain/Inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26)
Unlawful Detainer
<input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38)
Judicial Review
<input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400–3.403)
<input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment
<input type="checkbox"/> Enforcement of judgment (20)
Miscellaneous Civil Complaint
<input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (<i>not specified above</i>) (42)
Miscellaneous Civil Petition
<input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (<i>not specified above</i>) (43) |
|---|--|---|
2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (*check all that apply*): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (*specify*): Two
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (*You may use form CM-015.*)

Date: July 31, 2019
 Peter N. Kapetan

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on **all** other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

MICHAEL J. SEELEY; PAUL BUXMAN; DANIEL O'CONNELL;
HOPE NISLY; and DOES 1 through 50, inclusive.

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

DEVIN NUNES CAMPAIGN COMMITTEE

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Tulare County Superior Court
221 South Mooney Boulevard, Visalia, CA, 93291

CASE NUMBER:
(Número del Caso):

279766-

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Peter N. Kapetan, Esq.; 1236 M Street, Fresno, CA 93721; (559) 498-8000.

Stephanie Cameron

DATE:
(Fecha)

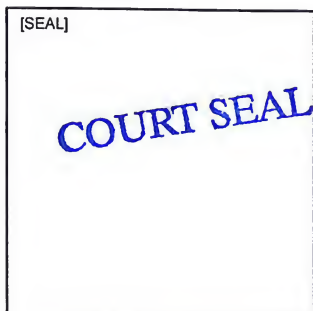
AUG 01 2019

Clerk, by
(Secretario)

Nicole Renteria

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. ☒ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):

AUG 01 2019

STEPHAN RENTERIA, CLERK
BY: _____

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CASE MANAGEMENT CONFERENCE

Hearing Date: 12/03/19
Time: 8:30
Department: 7

*(Application for Admission Pro Hac Vice
To be Filed)*

Counsel for Plaintiff: Devin Nunes Campaign Committee

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF TULARE

279766 -

DEVIN NUNES CAMPAIGN
COMMITTEE,

Plaintiff,

v.

MICHAEL J. SEELEY, PAUL
BUXMAN, DANIEL O'CONNELL,
HOPE NISLY, and DOES 1 through 50,
inclusive.

Defendants.

Case No.

COMPLAINT FOR DAMAGES:

**(1) TORTIOUS INTERFERENCE
WITH PROSPECTIVE
ECONOMIC RELATIONS
AND/OR CONTRACTUAL
RELATIONS; and,**

(2) CIVIL CONSPIRACY

**DEMAND FOR JURY TRIAL ON
ALL CLAIMS**

I.
INTRODUCTION

The unfettered and unbridled use of illicit "dark money" in political campaigns is detrimental to our democracy and threatens free and fair elections. All citizens, regardless of their political affiliation, should be concerned about the improper use of money that corrupts our

1 political process. Plaintiff Devin Nunes Campaign Committee is committed to transparent, open
2 and fair elections. Therefore, it brings the present action to vindicate its rights and to advance
3 the public's interest for free and fair elections. Plaintiff Devin Nunes Campaign Committee
4 seeks compensatory damages plus prejudgment interest, attorneys' fees and costs incurred –
5 arising out of the Defendants' tortious interference with business and common law conspiracy.
6 Any and all compensatory damages will be utilized by Plaintiff Devin Nunes Campaign
7 Committee to advance the cause of campaign reform to eliminate the improper use of "dark
8 money" and/or for education.

9 This is a case about the extreme activities of individuals who, in order to achieve a
10 coordinated political goal (flipping "red to blue"), violated the law, abused the judicial system,
11 and cost San Joaquin Valley communities and local taxpayers tens of thousands of dollars in
12 needless cost and expense. Targeting a United States Congressman, they launched an abhorrent
13 attack against his wife, who is an elementary school teacher. These individuals conspired with
14 dark-money political groups to (a) obtain and publish her work (elementary school) emails, (b)
15 falsely present her communications as evidence of wrongdoing, (c) file baseless "ethics"
16 complaints, and (d) gratuitously publish (doxx) the names and emails of many other teachers and
17 administrators at her school. They conducted this political operation knowing it would, and
18 indeed it did, result in harassment of teachers and administrators by political extremists,
19 including accusations that they are bigots and racists. For the conspirators, these wholly innocent
20 people were merely collateral damage in a coordinated, malicious political attack that relied on
21 the use of untraceable "dark money" and the willful violation of campaign finance laws.

22 23 **II.** **PARTIES**

24
25 1. Plaintiff Devin Nunes Campaign Committee ("Plaintiff Nunes Campaign
26 Committee") is a political committee organized pursuant to Title 52 U.S.C. § 30102(e)(1), and
27 duly registered with the Federal Elections Commission in Fresno California, registration number
28 C00370056).

1 2. Defendant Michael J. Seeley (“Defendant Seeley”) is an individual, and at all
2 times relevant to this Complaint a resident of Los Angeles, California. Defendant Seeley is a
3 political activist and long-time member of Southern California Americans for Democratic Action
4 (“SCADA”), a left-wing, populist political organization committed to liberal politics, liberal
5 policies, and a liberal future.

6 3. Defendant Paul Buxman (“Defendant Buxman”) is an individual, and at all times
7 relevant to this Complaint a resident of Tulare County, California. Defendant Buxman and his
8 wife, Ruth, operated the “Sweet Home Ranch”. In 2017, the Buxmans sold their farm, as the
9 full-time manual labor became too much for them to handle. Prior to August 9, 2018, Buxman
10 had never filed a lawsuit before in his life.

11 4. Defendant Daniel O’Connell (“Defendant O’Connell”) is an individual, and at all
12 times relevant to this Complaint a resident of Fresno, California. He is not a constituent of the
13 22nd Congressional District. He is not a farmer. O’Connell is executive director of the “Central
14 Valley Partnership” (“CVP”). The CVP is a network of political activists spanning the southern
15 San Joaquin Valley. The CVP promotes left-wing ideals in local government. Additionally,
16 Defendant O’Connell is a member of the editorial board of left-wing activist newspaper, the
17 *Community Alliance*, which claims to be an “independent voice for workers progressive groups
18 in the Central San Joaquin Valley.” Defendant O’Connell worked as the farmland conservation
19 director of the southern San Joaquin Valley with Sequoia Riverlands Trust. Upon information
20 and belief, he met Defendant Buxman while negotiating agricultural conservation easements on
21 behalf of the Sequoia Riverlands Trust.

22 5. Defendant Hope Nisly (Defendant Nisly”) is an individual, and at all times
23 relevant to this Complaint a resident of Reedley, California. She is a local author. Defendant
24 Nisly’s stories, including “Whack Her Good, Lord” and “Seasons of Doubt”, have aired on
25 KVPR radio.

26 6. The true names and capacities, whether individual, corporate, associate or
27 otherwise, of Defendants DOES 1 through 50, inclusive, are unknown to Plaintiffs, who
28 therefore sues said Defendants by such fictitious names. Plaintiff is informed and believe and

1 thereon allege that each of said fictitiously named Defendants either directly and/or indirectly
2 conspired with the named Defendants to tortuously interfere with Plaintiff Nunes Campaign
3 Committee's relationship and/or business with Devin Nunes and/or the public, and is responsible
4 in some manner for the events and happenings herein referred to, and negligently and/or
5 intentionally caused injury and damages legally and proximately to Plaintiff as herein alleged.

6 7. At all times herein mentioned, each of the Defendants was the agent and
7 employee of each and every one of the remaining co-defendants, and was at all times mentioned
8 herein acting within the purpose and scope of said agency and employment, and with the consent
9 and permission of each and every remaining co-defendant.

10 8. Plaintiff is informed and believes and thereupon alleges, that at all times relevant
11 hereto, all Defendants were the alter egos of each of the other Defendants and, as such, the acts
12 of one Defendant are considered the acts of the other Defendants. Plaintiff is informed and
13 believes, and thereupon alleges, that there is such a unity of interest and ownership between these
14 Defendants that separate corporate or other entity status no longer exists and further observance
15 of the fiction of separate existence among these Defendants would sanction fraud and promote
16 injustice.

17 **III.** **VENUE AND JURISDICTION**

18
19 9. At all times relevant to this action, the Plaintiff Nunes Campaign Committee
20 operated its business in Tulare County and elsewhere as a grassroots campaign to advance the
21 candidacy of Devin Nunes. Plaintiff Nunes Campaign Committee paid for and operated a
22 website [<https://www.devinnunes.com/>], solicited volunteers to assist campaign efforts,
23 collected and accounted for contributions, expended funds on behalf of the candidate, handled
24 campaign-related questions and inquiries, and reported to the FEC.

25 10. At all times relevant to this action, Defendants Buxman, O'Connell and Nisly
26 were residents of California Congressional District 22 which is within the jurisdiction of Tulare
27 County. Additionally, much of the wrongful, illegal and conspiratorial acts that were committed
28 by Defendants occurred within Tulare County.

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IV.
FACTS

11. Plaintiff Nunes Campaign Committee is a political committee organized pursuant to Title 52 U.S.C. § 30102(e)(1) as a principal campaign committee¹ of candidate Devin G. Nunes (“Nunes”). Nunes duly designated and authorized Plaintiff Nunes Campaign Committee to act as his campaign committee pursuant to Federal law and regulations promulgated by the Federal Election Commission (“FEC”). Plaintiff Nunes Campaign Committee (FEC # C00370056) exists separate and apart from the candidate. Its headquarters and principal office is in Visalia, California. In 2018, Nunes sought re-election to the office of United States Congressman for California’s 22nd District. The business of Plaintiff Nunes Campaign Committee was to support candidate Nunes. Through its Treasurer, Plaintiff Nunes Campaign Committee reported its receipts and disbursements on behalf of candidate Nunes to the FEC. Plaintiff Nunes Campaign Committee reports (on FEC Form 3) were (are) matters of public record that were available to and accessed by the Defendants and their agents and associates at all relevant times between 2017 and 2018.

12. Federal campaign finance laws, embodied within the Federal Election Campaign Act of 1971 (“FECA”), 52 U.S.C. §§ 30101–30146, as amended (most significantly in 1974, 1976, 1979, and 2002), regulate the use of money in federal elections. FECA regulates the sources, recipients, amounts, and frequency of contributions to political campaigns, as well as the purposes for which donated money may be used. As amended, FECA applies to virtually all financial transactions that impact upon, directly or indirectly, the election of candidates for federal office, including candidates for the House of Representatives. FECA reaches a wide range of activities aimed at influencing the public with respect to issues that are closely identified with federal candidates. FECA contains its own criminal sanctions. FECA crimes aggregating \$25,000 or more are five-year felonies, and those that involve illegal *conduit contributions* and

¹ Principal campaign committees for candidates for federal office are “political organizations” subject to taxation under Internal Revenue Code section 527. [<https://www.irs.gov/charities-non-profits/political-organizations/filing-requirements-1>].

1 aggregate over \$10,000 are two-year felonies. All criminal violations of FECA are subject to
2 United States Sentencing Guideline § 2C1.8, that the United States Sentencing Commission
3 promulgated in response to a specific Congressional directive. FECA violations that result in
4 false information being provided to the FEC may present violations of 18 U.S.C. § 371
5 (conspiracy to disrupt and impede a federal agency), 18 U.S.C. § 1001 (false statements within
6 the jurisdiction of a federal agency),² 18 U.S.C. § 1505 (obstruction of agency proceedings), or
7 18 U.S.C. § 1519 (creation of false records in relation to or contemplation of federal matters).

8 13. Super PACs are a relatively new type of committee that arose following the July
9 2010 federal court decision in *SpeechNow.org v. Federal Election Commission*. Technically
10 known as independent expenditure-only committees, super PACs may raise unlimited sums of
11 money from corporations, unions, associations and individuals, then spend unlimited sums to
12 overtly advocate for or against political candidates. Unlike traditional political action
13 committees, super PACs are prohibited from donating money directly to political candidates,
14 and, significantly, **their spending must not be made in coordination, cooperation,**
15 **consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's**
16 **authorized committee, or their agents, or a political party committee or its agents.** In an
17 election year, super PACs are required to report the identity of their donors to the FEC on a
18 monthly basis.

19 14. "Dark Money" refers to political spending meant to influence the decision of a
20 voter, where the donor is not disclosed and the source of the money is unknown. Dark Money

21 ² It is a federal crime for a person in any matter within the jurisdiction of the
22 executive, legislative, or judicial branch of the Government of the United States, to knowingly
23 and willfully—(1) falsify, conceal, or cover up by any trick, scheme, or device a material fact;
24 (2) make any materially false, fictitious, or fraudulent statement or representation; or (3) make
25 or use any false writing or document knowing the same to contain any materially false, fictitious,
26 or fraudulent statement or entry. 18 U.S.C. § 1001(a). With respect to a matter within the
27 jurisdiction of the legislative branch, it is a crime, *inter alia*, to make a false statement in
28 connection with an investigation or review, conducted pursuant to the authority of any
committee, subcommittee, commission or office of the Congress, consistent with applicable
rules of the House or Senate. 18 U.S.C. § 1001(c). Established March 11, 2008, by House
Resolution 895, the Office of Congressional Ethics ("OCE") is an independent committee that
oversees the ethics of the House of Representatives. [<https://oce.house.gov/about>].

1 can refer to funds improperly spent by a political nonprofit or a super PAC. Politically active
2 nonprofits – principally 501(c)(4)s and 501(c)(6)s – have become a major force in federal
3 elections over the last three cycles. These organizations can receive unlimited corporate,
4 individual, or union contributions that they do not have to make public, and though their political
5 activity is supposed to be limited, the IRS – which has jurisdiction over these groups – by and
6 large has done little to enforce those limits. Super PACs and dark money groups raise and
7 spend substantial amounts of money intended to influence the outcome of elections in the United
8 States. In 2018, super PACs raised a total sum of \$1,567,304,432.00, and spent
9 \$808,703,796.00. Dark money groups spent over a billion dollars.

10 15. Fight Back California is a Democratic super-PAC devoted to one cause: defeating
11 Republican candidates at all costs and by any means possible. On May 22, 2017, Fight Back
12 California filed a statement of organization with the FEC. In its cover letter to the FEC, Fight
13 Back California represented that it intended “to raise funds in unlimited amounts”, but that it
14 would “not use those funds to make contributions, whether direct, in-kind, or via coordinated
15 communications, to federal candidates or committees.”

16 16. During the 2017-2018 election cycle, Fight Back California received a total of
17 \$1,511,561 in donations. It spent a total of \$1,470,820 in 2018, including \$364,472 on federal
18 elections. Of the sum spent on federal elections, \$361,064 was spent against Republican
19 candidates. The vast majority of Fight Back California’s donations were paid to Baughman
20 Merrill, a firm that devises direct mail, media and digital communications strategies for
21 Democrats. Baughman Merrill’s work in 2018 included the creation of billboard ads and other
22 strategies that attacked Nunes.

23 17. Beginning in 2018, the Defendants and others coordinated, combined, associated,
24 agreed and acted in concert together and with Fight Back California and others for the purpose
25 of interfering with Plaintiff Nunes Campaign Committee’s business and defeating candidate
26 Nunes.

27 ///

28 ///

1 A. *Ethics Complaints As Political Warfare*

2 18. On June 7, 2018 – two days after Nunes won the primary election – the Nunes
3 Campaign was targeted by the American Democracy Legal Fund (“ADLF”), a left-wing, non-
4 profit organization founded by Democratic political operative, David Brock (“Brock”).³
5 Brock/ADLF pursues their goals by filing ethics complaints and FEC complaints against
6 Republicans, requesting that Republicans be investigated by federal and state agencies, and
7 “other legal strategies”. Brock/ADLF filed an “ethics” complaint against Nunes with the Office
8 of Congressional Ethics (“OCE”) based upon statements published on May 23, 2018 in the
9 *Fresno Bee*. The *Fresno Bee* is owned and operated by McClatchy. The Brock/ADLF “ethics”
10 complaint lacked any evidentiary support and was premised on the “possibility” – implied by
11 McClatchy – that Nunes was on board a yacht in 2015 with cocaine and prostitutes.
12 Brock/ADLF knew that the “ethics” complaint was completely false and was a contribution to
13 the broader coordinated effort to interfere with the Plaintiff Nunes Campaign Committee and the
14 Nunes Campaign.⁴

15 19. Brock/ADLF coordinated their attack upon the candidate Nunes and Plaintiff
16 Nunes Campaign Committee with Fight Bank California and others, including the Swamp
17 Accountability Project (“Swamp”), a dark money group run out of Virginia by political activist,
18 Elizabeth “Liz” Mair (“Mair”).⁵ Mair works for undisclosed, anonymous, dark money clients.
19 In her own words, she “anonymously smear[s]” her clients’ opposition “on the internet”. During
20

21 ³ Brock is also the founder and owner of left-wing propaganda firm, Media Matters
22 for America. Brock also founded Democratic super PACs, American Bridge 21st Century and
23 Correct the Record, and he is a board member of Democratic super PAC, Priorities USA Action,
and chairman of Citizens for Responsibility and Ethics in Washington (CREW).

24 ⁴ Although the Brock/ADLF “ethics” complaint was originally published on
25 ADLF’s website, it was removed from the website because even Brock and ADLF knew it was
26 scandalous and unsupportable.

27 ⁵ Mair is well-aware of the consequences of violating campaign finance laws. [See,
28 e.g., <https://twitter.com/LizMair/status/1130595381388152837> (“Be careful guys one of those
words plus a politician’s name can get you sued for hundreds of millions ;)].

1 the 2018 Congressional election, Swamp targeted candidate Nunes and fellow Congressman Jim
2 Jordan ("Jordan"). Jordan serves Ohio's 4th Congressional District. In total, Swamp spent
3 \$36,300 attacking Nunes. Swamp's constant attacks on Nunes were well known and were
4 coordinated with one or more federal political campaigns.

5 20. Swamp also filed a baseless "ethics" complaint against Nunes based on the
6 McClatchy publication. In addition to the "ethics" complaint, Swamp and Mair solicited
7 donations from supporters of a federal political campaign and coordinated with McClatchy to
8 republish and amplify the anti-Nunes advertisements and messages of false and baseless
9 complaints. For example, false allegations that Nunes invested in a business that allegedly used
10 underage hookers to solicit capital.

11 21. Sometime prior to July 2018, Seeley, acting at the direction of the Campaign for
12 Accountability ("CfA"),⁶ made a despicable request under the California Public Records Act
13 ("PRA") for emails sent and received by Nunes' wife, Elizabeth, an elementary school teacher
14 in Tulare County. Seeley's request targeting Nunes' wife ended up costing the Tulare County
15 Office of Education thousands of dollars in unnecessary cost and expense. Seeley published
16 Elizabeth Nunes' emails online and included the names and email addresses of numerous school
17 administrators and teachers, resulting in extensive harassment of these innocent, hard-working
18 citizens of Tulare County, including hateful accusations that they teach bigotry and racism. In
19 fact, the school was so concerned about security problems resulting from this situation that it
20 adopted enhanced security measures. On July 10, 2018, after these emails were published, CfA
21 filed a baseless "ethics" complaint against Congressman Nunes with OCE. The complaint was
22 part of the coordinated effort, involving multiple parties, Defendants and multiple platforms, in
23 violation of campaign finance law prohibiting such coordination, to "flip" the 22nd Congressional
24 District from "red to blue".

25 ///

26 _____
27 ⁶ CfA is a 501(c)(3) nonprofit organization that uses the PRA/FOIA, litigation, and
28 aggressive communications to target government officials, principally Republicans.
[<https://campaignforaccountability.org/about/>].

1 22. CfA's complaint relied in part on a document obtained by Seeley in response to
2 his PRA request on Nunes' wife's school. The document related to a potential investment the
3 Nuneses intended to make. The investment was fully disclosed by Nunes in April 2016 on his
4 Financial Disclosure Report. The Financial Disclosure Report was publicly available to the
5 Defendants and CfA at all times between 2016 and 2018. Despite the fact that the investment
6 was totally transparent, CfA pressed a false narrative to file an unmeritorious "ethics" complaint.
7 CfA further publicized the false allegations in press releases it published on it's website.

8 23. CfA's "ethics" complaint had no evidentiary support and was clearly and
9 indisputably based on sheer speculation.

10 24. Each of the "ethics" complaints filed against Nunes was immediately reported by
11 McClatchy in the *Fresno Bee* despite the complete lack of evidentiary support. McClatchy was
12 a knowing and eager participant in the coordinated effort to defeat Nunes in the 2018 election.

13 **B. Lawfare: Use Of The Courts For An Improper Purpose**

14
15 25. In August 2018, Buxman, O'Connell, Nisly and Does 1-10, acting together and
16 in concert with others in furtherance of the conspiracy to injure the Nunes Campaign, filed an
17 unfounded petition for writ of mandate (the "Petition") commanding the Secretary of State of
18 California to reject Nunes' proposed ballot designation of "U.S. Representative/Farmer" for
19 California's 22nd District general election scheduled for November 6, 2018.

20 26. The Petition was a sham. It was entirely instigated and funded by Democratic
21 super PAC Fight Back California, which was acting in coordination with one or more federal
22 election/political campaigns. Fight Back California targeted the Nunes Campaign as part of the
23 coordinated effort to "flip" the 22nd District from "red to blue". ("We're taking on Trump's
24 primary enabler @DevinNunes. Join our effort to flip his #CA22 district from red to blue on
25 Nov. 6 by donating today"); compare this to a tweet from a federal political campaign ("We are
26 thrilled to be opening our 2nd field office later this month! Let's flip #CA22!").

27 ///

28 ///

1 27. In May 2018, shortly before the June primary, Fight Back California launched a
2 billboard campaign dubbed “Three Billboards Against Devin Nunes”. More attack billboards
3 went up in Tulare County in July 2018.

4 28. Fight Back California’s spending was improperly coordinated with that of one or
5 more federal political campaigns, in violation of campaign finance laws.

6 29. During the 2017-2018 election cycle, the campaign of Nunes’ challenger reported
7 receiving a total of \$9,233,869.01 in contributions and transfers, and spent almost all of it.
8 Between May 2018 and August 2018, this campaign spent very large sums on direct marketing,
9 online (digital) advertising and media advertising. For instance, in May 2018 alone, this
10 campaign paid Left Hook Communications over \$225,000 for media advertising. Left Hook
11 specializes in campaigns designed to turn “red seats blue”. (“Left Hook helped flip 8/40
12 congressional seats that changed to Democratic control this November”)].⁷ In May 2018, the
13 campaign also paid over \$75,000 to Mission Control, Inc., a firm that specializes in “Flipping
14 Seats Blue”, for direct marketing, printing and related.⁸ This campaign paid “red to blue” digital
15 media and communications firm, Break Something, LLC, a total of \$1,014,850 between May
16 and September 2018 for online (digital) advertising and related services.

17 30. This campaign’s spending mirrored that of Fight Back California. For instance,
18 both spent hundreds of thousands of dollars on “fake farmer” advertisements. Fight Back
19 California and the campaign also coordinated their social media attacks on Nunes. The campaign
20 retweeted Fight Back California’s anti-Nunes billboard advertisements. Swamp joined in the
21 coordinated social media attacks upon the Nunes Campaign. (“Our ads hitting Ninepin his
22 district focused on tariffs. We weren’t the Janz campaign, but our ads made a big dent in Nunes.

23
24 ⁷ Between October 2017 and October 2018, this campaign paid a total of
25 \$3,704,286 to Left Hook Communications for media advertising
26 [[https://www.opensecrets.org/expends/vendor.php?year=2018&vendor=Left+Hook+Communi](https://www.opensecrets.org/expends/vendor.php?year=2018&vendor=Left+Hook+Communications)
cations].

27 ⁸ Between May 2017 and October 2018, this campaign paid a total of \$1,671,376
28 to Mission Control for direct marketing and printing services.
[https://www.opensecrets.org/expends/vendor.php?year=2018&vendor=Mission+Control\]](https://www.opensecrets.org/expends/vendor.php?year=2018&vendor=Mission+Control)

1 Here's the ad that ran for a good month, into mid-October ICYMI"). The campaign falsely
2 claimed that Nunes ignored the 22nd District and did not show up for work, while Fight Back
3 California likewise asserted that "Nunes has gone full D.C. and left the Valley behind."

4 31. The paid-for Petition was filed in August 2018 for the sole, improper purpose of
5 harassing the Nunes Campaign and Plaintiff Nunes Campaign Committee, interfering with its
6 business, and needlessly and vexatiously increasing cost and expense.

7 32. Fight Back California recruited Buxman, O'Connell and Nisly. Prior to
8 solicitation, Buxman, O'Connell and Nisly had no intention to challenge the Nunes Campaign's
9 ballot designation.

10 33. The Petition served no legitimate purpose. It was an abusive publicity stunt
11 designed to damage the Nunes Campaign and Plaintiff Nunes Campaign Committee and benefit
12 opposing campaigns.

13 34. Buxman immediately enlisted the media to promote the paid-for Petition.⁹ In an
14 interview with ABC30, Buxman falsely claimed that *he* "started" the Petition. McClatchy and
15 the *Fresno Bee* republished the talking points espoused by Fight Back California through the
16 dummy Petition. Buxman lied to the *Fresno Bee* and said that "he felt the need to speak out for
17 his fellow farmers". In reality, Buxman was being used as a spokesperson for improper dark
18 money entities.

19 35. As evidence of the coordination between Fight Back California and other federal
20 campaigns, a campaign seeded the "fake farmer" narrative on July 5, 2018 – approximately one
21 month before the fake farmer lawsuit was filed. Using language that would be adopted by Fight
22 Back California, the campaign accused Nunes of being a "fake farmer". After Fight Back
23 California's lawsuit was filed, the campaign championed the attack. It dutifully republished the
24 August 9, 2018 *Fresno Bee* article ("First there were fake memos now he's a fake farmer!") and
25 claimed that Nunes was being sued by Buxman, O'Connell and Nisly "because he wasn't telling
26

27 ⁹ For its part, Fight Back California took to social media to promote the paid-for
28 Petition. <https://twitter.com/FightBackCAPAC/status/1033131309806145536>;
<https://twitter.com/FightBackCAPAC/status/1034186702506549248>].

1 us the truth about his occupation.” The campaign and Fight Back California both employed the
2 same hashtag to identify their joint message. They both repeatedly referred to Nunes as a
3 “#FakeFarmer”. (an article from the campaign, entitled “**Fake Memo, Faker Farmer, Nunes**
4 **Gets Sued in CA-22**”)].¹⁰ The campaign also tweeted and republished articles by
5 Brock/ADLF alter ego Shareblue Media that discussed the Petition and bashed Nunes. The
6 coordinated nature of the efforts was evident from the timing of the publications, the specific
7 words used, and the use of Twitter to tweet and retweet the joint messages.

8 36. On August 17, 2018, Alex Padilla, Secretary of State of the State of California
9 (the “Secretary”), by counsel, filed his opposition to the Petition. The Secretary point out that
10 “Nunes’ ballot designation worksheet contained the following as justification for the use of U.S.
11 Representative/Farmer: ‘Current representative of CD 22 and partner in 2 farming operations.’”
12 Upon reviewing Nunes’ justification provided on his ballot designation worksheet, the
13 Secretary’s office “deemed that the proposed ballot designation of Mr. Nunes, ‘U.S.
14 Representative/Farmer,’ was acceptable under California Law.” The Secretary confidently
15 concluded that he had “made no error or omission” in accepting Nunes’ ballot.

16 37. On August 29, 2018, the Superior Court heard argument on the Petition. The
17 Court denied the Petition and sided with the Secretary of State.

18 38. Even after the Superior Court rejected the Petition, McClatchy and Fight Back
19 California continued their coordinated efforts to argue that Nunes was a “fake farmer, real
20 politician”.

21 **FIRST CAUSE OF ACTION**
22 **(Tortious Interference With Prospective Relations and/or Contractual Relations)**

23 39. Plaintiff Nunes Campaign Committee repeats, re-alleges, and incorporates the
24 allegations in paragraphs 1 through 38 as set forth above with the same force and effect as though
25 fully set forth herein.

26
27 ¹⁰ The campaign’s supporters did not hesitate to republish the article.
28 <https://twitter.com/jawja100/status/1027744620170629120> (Tweet by Snowflake).

1 40. Plaintiff Nunes Campaign Committee had valid and reasonable business
2 expectancies and prospective economic advantages in its representation of candidate Nunes
3 during the 2018 election.

4 41. By reason of their discussions and interactions amongst themselves and their
5 review of information available on the Internet, including the fraudulent “ethics” complaints
6 filed by ADLF, Swamp and CfA, the Defendants each knew and/or should have known of
7 Plaintiff Nunes Campaign Committee’s contracts and business expectancies and prospective
8 advantages with candidate Nunes.

9 42. The Defendants intentionally interfered with Plaintiff Nunes Campaign
10 Committee’s property rights, business expectancies and prospective advantages by, *inter alia*,
11 devising, aiding, abetting and actively participating in the coordinated scheme to interfere with
12 and injure the Nunes Campaign. The Defendants acted as stooges of CfA, Fight Back California
13 and others, and used improper methods in furtherance of the conspiracy, including acts and
14 practices that were, *inter alia*, unethical, oppressive, over-reaching, fraudulent, hostile, and
15 sharp. Defendants knew and/or should have known that Plaintiff Nunes Campaign Committee’s
16 relationship with the candidate Nunes would be disrupted by their acts.

17 43. As a direct result of the Defendants’ tortious interference with Plaintiff Nunes
18 Campaign Committee’s valid business expectations and prospective economic advantages,
19 Plaintiff Nunes Campaign Committee suffered damage and incurred loss including, without
20 limitation, loss of income and business, damage to its reputation, prestige and standing,
21 disruption of its relationship with candidate Nunes, special damages, court costs, and other out-
22 of-pocket expenses.

23
24 **SECOND CAUSE OF ACTION**
25 **(Common Law Conspiracy)**

26 44. Plaintiff Nunes Campaign Committee repeats, re-alleges, and incorporates the
27 allegations in paragraphs 1 through 43 as set forth above with the same force and effect as though
28 fully set forth herein.

1 45. Beginning in June 2018 and continuing through November 6, 2018, the
2 Defendants coordinated, combined, associated, agreed or acted in concert together and with
3 others, including CfA, Fight Back California and one or more federal political campaigns, for
4 the express purposes of injuring the Plaintiff Nunes Campaign Committee and intentionally and
5 unlawfully impeding and interfering with the Plaintiff Nunes Campaign Committee's business.
6 In furtherance of the conspiracy and preconceived plan, the Defendants and their agents
7 knowingly engaged in a joint, coordinated scheme the unlawful purpose of which was to advance
8 the goals of the dark money actually behind the so-called "ethics" complaints and Petition,
9 interfere with Plaintiff Nunes Campaign Committee's efforts to support the Nunes candidacy,
10 and "flip" the 22nd District.

11 46. The Defendants acted intentionally, purposefully, without lawful justification,
12 and with the express knowledge that they were injuring the Nunes Campaign and/or Plaintiff
13 Nunes Campaign Committee. As evidenced by their concerted action, the Defendants acted with
14 the express and malicious intent to cause the Nunes Campaign and/or Plaintiff Nunes Campaign
15 Committee injury.

16 47. The Defendants' actions constitute a conspiracy at common law.

17 48. As a direct result of the Defendants' willful misconduct, the Nunes Campaign
18 and/or Plaintiff Nunes Campaign Committee suffered actual damages including, but not limited
19 to, injury to its reputation, special damages, attorneys' fees, costs, and other out-of-pocket
20 expenses.

21 22 CONCLUSION AND REQUEST FOR RELIEF

23 WHEREFORE, Devin Nunes Campaign Committee respectfully requests the Court to
24 enter Judgment against the Defendants, jointly and severally, as follows:

- 25 A. Compensatory damages in the amount as is determined by the Jury;
26 B. Prejudgment interest from June 5, 2018 until the date Judgment is entered at the
27 maximum rate allowed by law;
28

- 1 C. Post judgment interest;
2 D. Attorney's Fees and Costs;
3 E. Punitive damages;
4 F. Such other relief as is just and proper.
5

6 DATED: August 1, 2019
7

8 KAPETAN BROTHERS, LLP.

9
10 By: 
11

12 Peter N. Kapetan and Steven S. Biss (*Application for*
13 *Admission Pro Hac Vice To Be Filed*), Attorneys for
14 Plaintiff Devin Nunes Campaign Committee
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